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| 10/764,733 | 01/26/2004 | DANIEL MIGNANO | MIGNANO - 1 | 8638 |
| 7590 | 01/11/2006 | | EXAMINER | |
| BERNARD S. HOFFMAN 460 OLD TOWN ROAD SUITE 7F PORT JEFFERSON STATION, NY 11776 | | | LARSON, JUSTIN MATTHEW | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3727 | | |

DATE MAILED: 01/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------------|------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/764,733 | MIGNANO, DANIEL |
| | Examiner Justin M. Larson | Art Unit 3727 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 November 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 7-24,27-38,40-43 and 46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 7-24,27-36,38,40-43 and 46 is/are rejected.
- 7) Claim(s) 35 and 37 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 26 January 2004 is/are: a) accepted or b) objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

1. This Action is made FINAL in view of Examiner's new grounds of rejection, which were necessitated by applicant's amendments to the claims, submitted on November 22nd, 2005.

Claim Objections

2. Claim 35 is objected to because of the following informalities: In line 1, the word "wherein" is repeated unnecessarily. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 7-19, 21-24, 29, 31-33, 36, 42, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Blanchard (US 385,657).

Regarding claim 7, Blanchard discloses a combination pack and hunting blind, comprising: a pack; and a hunting blind (D & D'); wherein said hunting blind has a stowed position (Figure 1); wherein said hunting blind has a deployed position (Figure 2); wherein said pack has a first surface (M, Figure A below); wherein said first surface of said pack has an open position (Figure 2); wherein said hunting blind is housed in

said pack when said hunting blind is in said stowed position thereof (Figure 1); wherein said hunting blind is deployed from said pack when said hunting blind is in said deployed position thereof (Figure 2); and wherein said hunting blind is secured to said first surface of said pack and to a surface of said pack other than said first surface of said pack (in Figure A below, hunting blind D is secured to first surface M along seams O and is also secured to a second surface N along seams P).

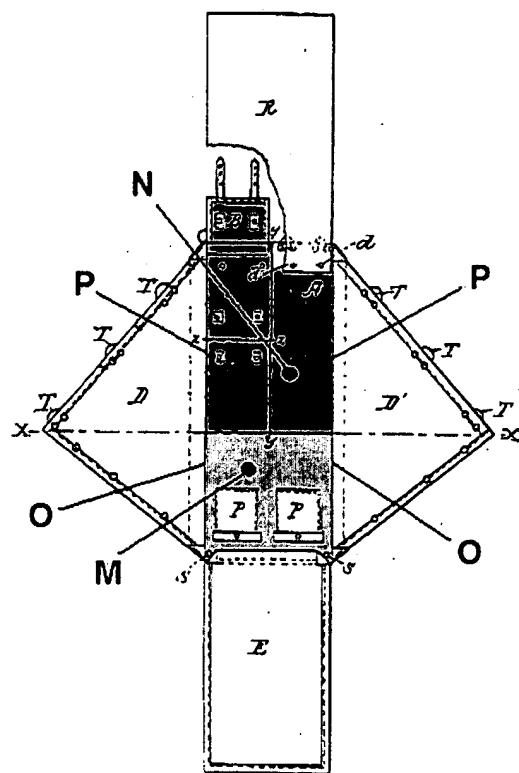


FIGURE A

Regarding claim 8, the initial statement of intended use and all other functional implications of applicant's "first means" have been carefully considered but are deemed not to impose any patentably distinguishing structure over the straps (H & H') disclosed

by Blanchard which are capable of being used in the intended manner, i.e., to hang the pack from a tree stand. There is no structure in Blanchard that would prohibit such functional intended use (see MPEP 2111).

Regarding claims 17 and 18, the first means or straps (H & H') of Blanchard form at least one loop, effectively satisfying the limitations of the claims.

Regarding claims 9 and 15, the pack of Blanchard comprises two carrying straps (C & C'), which are disposed on the opposite surface, or third surface, of the second surface (N, Figure A above, dark grey region), effectively satisfying the limitations of the claims.

Regarding claims 10, 19, and 42 the pack of Blanchard comprises spaced apart loops (T) that are used to secure the hunting blind to another object while the hunting blind is in a deployed position. Although the hunting blind is shown attached to the ground in Figure 3, the loops are perfectly capable of being attached to a tree stand, effectively satisfying the limitations of the claims.

Regarding claim 11, the pack of Blanchard is in fact a backpack, effectively satisfying the limitations of the claim.

Regarding claim 12, the pack of Blanchard has a rear portion that is folded down, this rear portion having rear surfaces, the first surface (M, Figure A above, light grey region) being one of these rear surfaces, effectively satisfying the limitations of the claim.

Regarding claim 13, the pack of Blanchard has a second surface (N, Figure A above, dark grey) wherein the first means (straps H & H') are disposed on this second surface, effectively satisfying the limitations of the claim.

Regarding claims 14, 29, and 36, the pack of Blanchard has a top surface (B) that is part of the second surface (N, Figure A above, dark grey region), wherein the interior of the pack is accessible when the hunting blind is in the deployed position, and wherein the interior of the pack is accessible from the top surface of the pack, effectively satisfying the limitations of the claims.

Regarding claim 16, when referring to Figure A above, N (the dark grey region) can be considered the first surface of the pack. Now, if the front and back faces of surface N are all considered to make up the entire first surface, then the shoulder straps which are disposed on the rear face of this surface, or third surface, are in fact on the first surface. Looking at the pack embodiment this way renders the first and third surfaces to in fact be a single surface, effectively satisfying the limitations of the claim.

Regarding claim 21, the hunting blind of Blanchard made of thin, flexible material that is wrapped and folded so as to be easily stowed inside the pack when the hunting blind is in the stowed position, effectively satisfying the limitations of the claim.

Regarding claims 22 and 46, the hunting blind of Blanchard is secured to the pack and the first of the pack so as to allow the hunting blind to extend substantially the height of the pack and the height of the first surface of the pack when the first surface of the pack is in the open position and the hunting blind is in the deployed position thereof, effectively satisfying the limitations of the claims.

Regarding claims 23 and 24, Blanchard discloses pockets (P) that are disposed on the pack and only exposed when the pack is in the open configuration, effectively satisfying the limitations of the claims.

Regarding claims 31, 32, 33, the hunting blind of Blanchard extends from and is secured to both sides of the pack and both sides of the first surface when in the deployed position, effectively satisfying the limitations of the claims.

5. Claims 7, 9, 11, 12, 15, 16, 21-23, 30, 43, and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Purpura (US 6,659,319).

Regarding claim 7, Purpura discloses a combination pack and hunting blind, comprising: a pack (14/16); and a hunting blind (privacy screen 68); wherein said hunting blind has a stowed position (col. 5 lines 8-9); wherein said hunting blind has a deployed position (Figure 2); wherein said pack has a first surface (16); wherein said first surface of said pack has an open position (Figure 2); wherein said hunting blind is housed in said pack when said hunting blind is in said stowed position thereof (col. 5 lines 8-9); wherein said hunting blind is deployed from said pack when said hunting blind is in said deployed position thereof (Figure 2); and wherein said hunting blind is secured to said first surface (16) of said pack and to a surface (14) of said pack other than said first surface of said pack (see esp. Figure 2).

Regarding claim 9, Purpura discloses shoulder straps (44 & 46) that are disposed on the pack, effectively satisfying the limitations of the claim.

Regarding claim 11, the pack of Purpura is a backpack, effectively satisfying the limitations of the claim.

Regarding claim 12, the first surface (16) of Purpura can be considered a rear surface of the pack, effectively satisfying the limitations of the claim.

Regarding claims 15 and 16, the two shoulder straps of Purpura are located on a face of the first surface which can be considered a third surface, but because this face is in fact part of the first surface, this third surface is considered to be one or the same with the first surface, effectively satisfying the limitations of the claims.

Regarding claims 21 and 23, the hunting blind of Purpura is made of a thin, flexible material that is easily wrapped and folded so as to be easily stored in pocket (70) of the pack when in the stowed position, effectively satisfying the limitations of the claims.

Regarding claims 22 and 46, the hunting blind of Purpura is secured to the pack and the first of the pack so as to allow the hunting blind to extend substantially the height of the pack and the height of the first surface of the pack when the first surface of the pack is in the open position and the hunting blind is in the deployed position thereof, effectively satisfying the limitations of the claims.

Regarding claim 30, the first surface (16) is detachably secured to the pack by a zipper (32), effectively satisfying the limitations of the claim.

Regarding claim 43, the hunting blind of Purpura is detachably secured to the pack and the first surface so that it can be removed (col. 5 lines 10-11), effectively satisfying the limitations of the claim.

Claim Rejections - 35 USC § 103

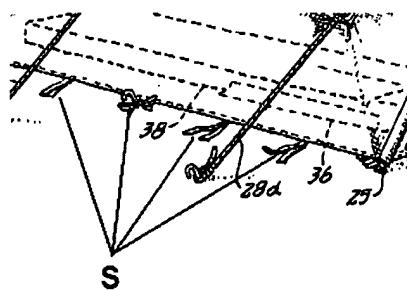
6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 20, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanchard in view of Smith et al. (US 3,931,918).

Regarding claim 20, Blanchard discloses the claimed invention except for at least one loop of the second means being at least one strap.

Smith et al., however, also discloses a pack from which a hunting blind can be deployed and teaches that straps (S, shown below) may be secured in spaced apart locations along the edges of the hunting blind for securing the hunting blind to a support structure/foundation. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the hunting blind of Blanchard by replacing the spaced apart loops with spaced apart straps, as taught by Smith et al., allowing a user to tie the hunting blind to a support structure in addition to using a stake or peg, as both are shown to be capable of being used with.



Regarding claims 27 and 28, the straps (S) or second means of Blanchard in view of Smith et al. are tied together in order to detachably fasten the straps together. According to claim 28, ties are an acceptable fourth means, effectively satisfying the limitations of the claims.

8. Claims 34 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanchard.

Regarding claim 34, Blanchard discloses the claimed invention except for pockets (P) being of various shapes and sizes. It would have been an obvious matter of design choice to modify the size and shape of the pockets, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955).

Regarding claim 38, Blanchard teaches that the portion (R) attached to the pack is waterproof to help keep a user dry (col. 1 line 39). It would have been obvious to one having ordinary skill in the art at the time the invention was made to also form the pack body and the other attached portions, i.e. the rest of the hunting blind, out of water-proof material to further protect a user from getting wet. Examiner takes the position that these waterproof materials are also water-repellant.

9. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blanchard in view of Sicoli et al. (US 4,466,516). Blanchard discloses the claimed invention except for the at least one pocket being an accordion style pocket.

Sicoli et al., however, also discloses a pack from which a blind is deployed and teaches that it is already known in the art to use accordion style pockets (58 & 60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the pack of Blanchard by using according style pockets, as taught by Sicoli et al., since such pockets are old and well known in the art and allow a user to at least partially expand an edge of the pocket for easy insertion of objects therein.

10. Claims 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blanchard in view of Celik (5,467,907). Blanchard discloses the claimed invention except for the pack and hunting blind having at least one of a pattern and coloration. It is, however, well known in the art that a backpack can be given any number of patterns and colors to suit a wide variety of needs and personal tastes. It follows that the hunting blind/changing pad would be made to match to pack. More specifically, Celik teaches an olive and green camouflage pack used for hunting. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention wad made to modify the pack of Blanchard by making it olive and green camouflage, as taught by Celik, and to make the hunting blind/changing pad to match the pack, in order to blend the hunter in with his/her surroundings, or to simply appeal to someone's personal tastes.

Allowable Subject Matter

11. Claim 37 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to claims 7-24, 27-38, 40-43, and 46 have been considered but are moot in view of the new ground(s) of rejection.

Examiner has withdrawn the original objections to the drawings.

Examiner has withdrawn the original claim objections with respect to claims 7, 30-33, 38-40, 43, 44, and 46 in view of applicant's amendment to the claims.

Examiner has withdrawn the original rejection of claims 35 and 39 under 35 U.S.C. 112, 2nd Paragraph, agreeing with applicant that an accordion style pocket is a pocket with distinctive, understandable, and recognizable structure in the art.

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Friday, 8am - 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JML
12/29/05



NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER